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SPECIFIC GROUPS AND INDIVIDUALS: MIGRANT WORKERS

Written statement submitted by Pax Christi International, International Catholic Peace Movement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31

[30 December 1999]

Humane migrant labour: make it work!

General observations

1. The challenge of labour migration in the context of economic globalization should be considered in the ethical framework of global justice and solidarity, and the universal responsibility for life and humankind. Human labour should be appreciated as personal growth and social participation in the economic process of production, distribution and consumption of food and other necessities, in the responsible exchange of goods, services and technology, and the multicultural interaction of visions, values, experience and information. This humanizing process should focus on developing inclusive, participatory societies that respect and protect human dignity and the social, economic, cultural, civil and political rights of all children, women and men. Human and humane labour should therefore contribute to liberating all societies from poverty and greed, ignorance and manipulation, intolerance and exclusion, exploitation and slavery, military and non-military threats to life, livelihood, security and peace.

2. Managing labour migration on a political level requires a comprehensive approach by the international community and States Members of the United Nations. Such an approach should address the root causes of unbalanced, chaotic migration of labour on a global scale. Attempts to restore the just and balanced global production, trading and distribution of the necessities of life, while respecting human rights and dignity, should include, among other things:

(a) A different vision on and attitude towards traditional North-South relations and related concepts such as growth, development, progress, cooperation, partnership, good governance, stability, security;

(b) Social reorientation of the objectives, strategies and programmes of the International Monetary Fund (IMF), the World Bank (WB), the Organization for Economic Cooperation and Development (OECD) and the World Trade Organisation (WTO);

(c) An ethical approach to the process of market globalization including social responsibility and effective accountability of multinational enterprises (MNEs) and other major actors;

(d) A debt cancellation process for poor countries.

3. Any attempt to control labour migration is doomed to fail unless it is based on a harmonized policy of openness. Such a policy does not contradict or reject the right of a State to control its borders. A policy of openness does not mean a policy of open borders but rather an unprejudiced attitude which regards migrants and migrant workers not as a burden per se, but rather as a cultural and socio-economic asset which societies cannot afford to lose. Moreover, migrants and migrant workers continue to contribute considerably to economies, and in addition they offer a beneficial answer to the demographic evolution in highly industrialized countries. Therefore, migrants and migrant workers should enjoy equal opportunities and treatment at all levels of society. This should include reasonable and fair transitional measures leading towards admissibility to citizenship or dual nationality, and the right to vote.

4. The State should not be conceived as the exclusive "property" of national inhabitants but rather as the protector of rights, including the rights of minorities as immigrants and migrant workers. Controlling State borders should not lead to violating or curtailing the human rights of regular or irregular non-citizens. Therefore, legislation for the benefit of the wider community, free of gaps in protection, should overrule the enforcement of deficient laws.

Concerns and recommendations

5. On the subject of migrant labour and migrant workers, Pax Christi International shares a number of concerns and recommendations with other NGOs, international organisations and confederations.

On the individual level

6. For all migrant workers, including migrant domestic workers and irregular migrant workers, Pax Christi International recommends legal protection, implementing measures and effective remedies with regard to the following:

(a) The right never to be deprived of one's identity, travel or contractual documents by employers or local recruitment agents;

(b) The right to equal treatment as guaranteed for national workers and domestic workers;

(c) The right to file grievances against violations of their labour rights or human rights, and against all forms of cruel, inhuman or degrading treatment, and the right to stay and work during the legal proceedings;

(d) The right to have free access to their embassies and to enjoy appropriate and cooperative attention to their needs within a reasonable period of time;

(e) The right to join trade unions and other workers' organizations;

(f) The right not to be subjected to arbitrary and inhuman detention and expulsion;

(g) The right of migrant workers, in particular children, girls and women, to abscond, without risking punishment, from any employment involving forced prostitution, forced child labour, bonded labour and all forms of cruel, inhuman and degrading treatment, including the right to apply for appropriate re-employment;

(h) The right of migrant domestic workers, especially children, girls and women, to leave their employers, without risking punishment, when they suffer physical threats or violence, sexual intimidation, abuse or assaults, including the right to apply for appropriate re-employment.

On the level of Governments

7. Pax Christi International urges Governments of sending and receiving countries to take appropriate and effective measures to facilitate exposure and prosecution of male fide and criminal practices with regard to the recruitment, transport and employment of migrant workers, including migrant domestic workers and irregular migrant workers. Such measures should include:

(a) Registration, control and monitoring of recruitment agencies, and guidelines for recruitment procedures and contracts corresponding to international and national labour standards;

(b) Reliable, qualified pre-departure information and training;

(c) Ombuds-service for reporting and exposing male fide and criminal practices by official or irregular agents and employers who extort and deceive migrant workers, imposing fake contracts on them, misleading them with false labour or remuneration perspectives, subjecting them to unacceptable working and living conditions;

(d) Access to local health clinics, social and legal services and to NGO counselling facilities in the receiving countries;

(e) Protection and remedies against racist discrimination and racist-inspired ill-treatment and assaults;

(f) Reinforcing embassies and diplomatic missions with qualified "social attachés" mandated to follow up migrant workers' legitimate grievances, in cooperation with local trade unions, workers' organizations and NGOs;

(g) Combating the corruption and the complicity of border officials involved in cross-border trafficking of children, girls and women;

(h) Exposing foreign officials who exploit, ill-treat, or sexually harass and abuse migrant domestic workers under cover of their diplomatic immunity;

(i) Empowering NGOs to assist migrant victims in exposing and effectively prosecuting violators of their labour rights, human rights or human dignity.

On the local level (NGOs, other organisations, etc.) of receiving countries

8. Pax Christi International encourages local NGOs, trade unions, and workers' and employers' organizsations in receiving countries to report and expose violations of migrant workers' labour rights, human rights and human dignity, including the exploitation of and discrimination against domestic (national) migrant workers. Considering the growing slavery-like exploitation of migrant workers in receiving countries where racial discrimination and aggression are no longer exceptional, it is indispensable to develop concerted media strategies in order to help raise public awareness and to build up political pressure. Moreover,

all social forces concerned with migrant workers' rights and their empowerment are encouraged to develop networking, and join efforts lobbying their Governments specifically to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

On the international level

9. On the international level, and in view of the proposal to convene a United Nations conference on international migration and development, Pax Christi International urges all Governments to sign and/or ratify bilateral and multilateral agreements or conventions with regard to the labour rights, human rights and dignity of all migrant workers, including irregular migrant workers. Seriously concerned with the alarming gap between the available international labour standards and instruments and their weak implementation with regard to migrants and migrant workers, Pax Christi International recommends the following:

(a) Establishing an international monitoring and protection mechanism which should include individual remedy procedures and Member State reporting on the rights and treatment of all migrant workers;

(b) Giving permanent character to the working group of intergovernmental experts on the human rights of migrants of the Commission on Human Rights and enlarging its mandate;

(c) Encouraging the working group to urge all States to enforce adequate anti-trafficking legislation, by relentlessly prosecuting the traffickers and not by hunting and hurting their victims;

(d) Urging the working group to draft recommendations on how to combat effectively the exploitation and human rights violations of migrant domestic workers under cover of "diplomatic immunity";

(e) Updating available studies on the rights, including labour rights, of non-citizens and discussing them with a view to adopting the conclusions and recommendations as a United Nations declaration;

(f) Making admissible at relevant levels of the mechanism of the International Labour Organization reports on the rights of migrant workers issued by NGOs;

(g) Intensifying cooperation between ILO, the international institutions (IMF, World Bank, WTO, OECD, etc.) and relevant organizations (International Confederation of Free Trade Unions - ICFTU, World Confederation of Labour - WCL, etc.) to ensure that social clauses guarantee better protection of the labour rights and human rights of migrant workers, including irregular migrant workers;

(h) Including ILO's recommendations with regard to export processing zones in the eligibility criteria for preferential trade access;

(i) Establishing individual remedy procedures under the European Social Charter, which should also be accessible to irregular migrant workers;

(j) Encouraging international confederations of trade unions (ICFTU, WCL) in their efforts to concentrate their experience and resources towards developing a trade union charter for all migrant workers, including irregular migrant workers.

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